

Appl. No. 10/776,851
Docket No. CM2687MQ
Amtd. dated October 31, 2007
Reply to Office Action mailed on August 9, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1-7, 9, 12-13, and 16-19 are pending in the present application. Claims 2, 13 and 16-19 are canceled without prejudice. Claims 8, 10-11, 14-15, and 20 were previously canceled without prejudice. New Claim 21 has been added. Support for the addition of Claim 21 can be found at least on page 12, lines 31-33. Claim 1 has been amended. Support for the amendment is found at least on page 3, lines 16-20, page 9, lines 10-15 and originally filed Claim 2 (now canceled). Claims 3-7, 9, and 12 have been amended to correct dependency issues. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested. No additional claims fee is believed to be due.

Double Patenting

The Office Action states that pending Claims 1, 2, 13, and 17 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claim 5 of copending Application No. 11/717,234; Claims 7 and 16 of copending Application No. 11/717,235; and Claim 8 of copending Application No. 11/717,556. The provisional rejection is hereby acknowledged.

According to the provisions of MPEP 804, until such time as a provisional rejection becomes an actual rejection, no response is required. Additionally, since it cannot be foreseen with certainty which claims in the related Applications will eventually be allowed, no response other than the above acknowledgement will be made at this time.

The Rejection under 35 U.S.C. §103(a) over Tanzer

Claims 1-7, 12, 13, and 17-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Tanzer, *et al.*, (WO 01/15647) (hereinafter, "Tanzer"). Applicants respectfully traverse this rejection, as the reference does not establish a *prima facie* case of obviousness. Specifically, the reference does not teach or suggest all of Applicants' claim limitations, as required under MPEP 2143.03. Further, there is no suggestion or motivation to modify the reference, as required under MPEP 2143.01.

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Tanzer does not teach or suggest all of Applicants' claim limitations. Amended Claim 1 requires that the absorbent core comprise first and second substrate layers each having absorbent material deposited thereon, and a *thermoplastic material that contacts at least portions of the absorbent material and at least portions of the substrate layer in order to immobilize the absorbent material on the substrate layer*. The wet immobilization of the present invention is achieved by immobilizing the absorbent material on the substrate layer.

Tanzer does not teach the absorbent article claimed in the present invention. Tanzer teaches a plurality of pockets formed in a substrate layer, the pockets containing a superabsorbent material. The plurality of pockets in Tanzer are formed in the surge layer and contain the superabsorbent material, which enables the surge layer to perform the dual functions of surge and absorbency (page 5, lines 19-22). Further, the pockets of Tanzer have a preferred distance apart (page 5, line 28 - page 6, line 2); a preferred depth (page 6, lines 3-7); and a preferred shape (page 8, lines 3-11). Tanzer makes no mention of having an absorbent material deposited on a substrate layer and a thermoplastic material applied on top of the absorbent material and the substrate layer to immobilize the absorbent material on the substrate layer.

The absorbent material of the present invention is immobilized by the thermoplastic material, while the absorbent material of Tanzer is contained inside pockets formed in the surge layer. Amended Claim 1 requires thermoplastic material that contacts at least portions of the absorbent material and at least portions of the substrate layer in order to immobilize the absorbent material on the substrate layer. Tanzer does not teach immobilizing the absorbent material on a substrate layer with a thermoplastic material.

The Office Action states that "Tanzer teaches a thermoplastic material (12, 42), which contacts said absorbent polymer material (58) (page 9, line 28 - page 10, line 16)." The portion of Tanzer cited in the Office Action describes that each nonwoven web is made from one or more thermoplastic polymers (page 10, line 4). Tanzer makes no mention of a thermoplastic material that contacts the absorbent material and the substrate layer to immobilize the absorbent material, as required in amended Claim 1.

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Further, there is no suggestion or motivation to modify Tanzer to result in the present invention. Tanzer is directed to a combination of plural layers into a single layer, thereby reducing the total number of layers without yielding any function. Specifically, the Tanzer invention is directed to an absorbent article wherein the absorbent function is integrated into either the surge material or the outer cover material, eliminating the need for a separate central absorbent composite, by forming a plurality of small pockets in the surge material and/or the outer cover material (page 3, lines 1-10).

Amended claims of the present invention require an absorbent core comprising first and second substrate layers each having absorbent material deposited thereon and a thermoplastic material that contacts at least portions of the absorbent material and at least portions of the substrate layer in order to immobilize the absorbent material on the substrate layer to achieve a wet immobilization of more than about 50% according to the Wet Immobilization Test. One skilled in the art would not be motivated by Tanzer's teaching of integrated layers to develop the absorbent article of the present invention.

For the foregoing reasons, the Office Action does not establish a *prima facie* case of obviousness. Therefore, Applicants assert that Claim 1, and all claims depending therefrom, is nonobvious over Tanzer. Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

The Rejection under 35 U.S.C. §103(a) over Tanzer in view of Sauer

Claims 9 and 16 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Tanzer in further view of Sauer, U.S. Patent No. 5,527,300 (hereinafter, "Sauer"). Applicants respectfully traverse this rejection, as the references do not establish a *prima facie* case of obviousness.

As discussed above, Tanzer does not teach a thermoplastic material that contacts at least portions of the absorbent material and at least portions of the substrate layer in order to immobilize the absorbent material on the substrate layer. Sauer does not alleviate the shortcomings of Tanzer, as Sauer also does not teach the thermoplastic material of the present invention.

For the foregoing reasons, the Office Action does not establish a *prima facie* case of obviousness. Therefore, Applicants assert that Claim 1, and all claims depending

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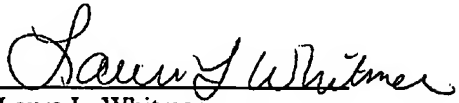
Appl. No. 10/776,851
Docket No. CM2687MQ
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Customer No. 27752

therefrom, is nonobvious over Tanzer in view of Sauer. Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

CONCLUSION

In view of the above, Applicants respectfully submit that each of the issues raised by the Office Action has been addressed. Reconsideration and allowance of each of the pending claims is respectfully requested.

Respectfully submitted,
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